

Thomas D. Jensen #59748

Name

NNCC P.O. Box 7000Carson City Nevada#59748

Prison Number

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADAThomas D. Jensen

vs

Plaintiff,

James DzurandaHarold WickhamIsidro BacaBrian WardLisa WalshDamon BellEdward MasonCorrectional Officer LobatoCorrectional Officer PetersCorrectional Officer CardellaWilliam GitterJohn Doe #1 SchmittJohn Doe #2

Defendants

CASE NO. \_\_\_\_\_

(To be supplied by the Clerk)

## CIVIL RIGHTS COMPLAINT

PURSUANT TO

42 U.S.C. § 1983

42 U.S.C. § 1985

(Jury Demand)

## A. JURISDICTION

- 1) This complaint alleges that the civil rights of Plaintiff, Thomas Jensen,  
(Print Plaintiff's name)

who presently resides at Northern Nevada Correctional Center Carson City NV were

violated by the actions of the below named individuals which were directed against

Plaintiff at Northern Nevada Correctional Center / Elko State Prison on the following dates  
(institution/city where violation occurred)

May 19, 2017

(Count I)

May 22, 2017

(Count II)

May 23, 2017

(Count III)

June 8, 2017

Count #4

June 25<sup>th</sup> 2017

Count #5

June 26<sup>th</sup> 2017

Count #6

July 25, 2017

Count #7

September 19, 2017

Count #8

November 7<sup>th</sup> 2017

Count #9

November 29<sup>th</sup> 2017

Count #10

December 8<sup>th</sup> 2017

Count #11

March 21<sup>st</sup> 2018

Count #12

May 17<sup>th</sup> 2018

Count #13

June 19<sup>th</sup> 2018

Count #14

July 14<sup>th</sup> 2018

Count #15

March 19, 2018

Count #16

Count #17

Revised 10-7-16

**Make a copy of this page to provide the below  
information if you are naming more than five (5) defendants**

2) Defendant James Dzuranda resides at Casper City NV.  
 (full name of first defendant) (address if first defendant)  
 and is employed as Director of Prisons. This defendant is sued in his/her  
 (defendant's position and title, if any)  
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was  
 acting

under color of law: He refused to correct actions of Brian Ward and Lisa Welch as well as  
Pam DelPorto, by properly supervising them resulting in violating my 1<sup>st</sup> 14<sup>th</sup> civil rights

3) Defendant Harold Wickham resides at NNCC Casper City NV.  
 (full name of first defendant) (address if first defendant)  
 and is employed as Deputy Director of Prisons. This defendant is sued in his/her  
 (defendant's position and title, if any)  
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was  
 acting

under color of law: He worked in concert action to cover up civil rights violations violating my  
1<sup>st</sup> 14<sup>th</sup> civil rights

4) Defendant Isidro Baen resides at NNCC Casper City NV  
 (full name of first defendant) (address if first defendant)  
 and is employed as Warden @ NNCC. This defendant is sued in his/her  
 (defendant's position and title, if any)  
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was  
 acting

under color of law: He worked in concert action by conspiring with others to cover up staff misconduct  
and federal crimes Title 18 USC 241, 242 resulting in violation of my 1<sup>st</sup> 14<sup>th</sup> and 8<sup>th</sup> Amendment rights

5) Defendant Brian Ward resides at NNCC Casper City NV.  
 (full name of first defendant) (address if first defendant)  
 and is employed as Associate Warden of Operations. This defendant is sued in his/her  
 (defendant's position and title, if any)  
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was  
 acting

under color of law: Conspired with others to impede extradition of prisoners, violation of 1<sup>st</sup> and  
14<sup>th</sup> civil rights

6) Defendant Lisa Walsh resides at NACC Carson City NV.

and is employed as Associate Warden of Programs. This defendant is sued in his/her

☒ individual ☒ official capacity.

under color of law: Engaged in conspiracy to conceal civil rights violations, retaliation and impeding grievance process, deprivation under color of law.

7) Defendant Damon Bell resides at NACC Carson City NV.

and is employed as Lieutenant. This defendant is sued in his/her

☒ individual ☒ official capacity.

under color of law: Engaged in retaliatory action, conspiracy to conceal civil rights violations, deprivation under color of law (Title 18 USC 241, 242 and 42 USC 1985 (3))

8) Defendant Mason resides at NACC Carson City NV.

and is employed as correctional officer. This defendant is sued in his/her

☒ individual ☒ official capacity.

under color of law: Engaged in retaliatory discrimination, under 42 USC 1983 1985 (3) deprivation under color of law.

9) Defendant <sup>correctional officer</sup> Lobato resides at NACC Carson City NV.

and is employed as correctional officer. This defendant is sued in his/her

☒ individual ☒ official capacity.

under color of law: Engaged in deprivation under color of law, retaliation resulting in injury.

10) Defendant <sup>correctional officer</sup> Peters resides at NACC Carson City NV.

and is employed as correctional officer. This defendant is sued in his/her

☒ individual ☒ official capacity.

under color of law: Engaged in deprivation under color of law, retaliation resulting in injury.

11) Defendant JAMES Cardella resides at NACC Carson City NV.

and is employed as correctional officer. This defendant is sued in his/her

☒ individual ☒ official capacity.

under color of law: Engaged in deprivation under color of law, retaliatory discrimination under 42 USC 1983 1985 (3)

12) Defendant William Gittar resides at Elly State Prison

and is employed as Associate Warden. This defendant is sued in his/her

☒ individual ☒ official capacity.

under color of law: Deprivation under color of law, retaliatory action, conspiracy to conceal civil rights violations.

13. Defendant John Doe #1 resides at Ely State Prison,  
 (full name of first defendant) (address if first defendant)  
 and is employed as Correctional Officer. This defendant is sued in his/her  
 (defendant's position and title, if any)  
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was  
 acting

under color of law: Engaged in conspiracy to conceal civil rights violations, federal  
crimes under Title 18 USC § 1512, 241, 242.

7) Jurisdiction is invoked pursuant to 28 U.S.C. § 1343 (a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional statutes, list them below.

42 U.S.C. § 1985 (3)

#### B. NATURE OF THE CASE

1) Briefly state the background of your case.

Since May of 2017, the defendants have sought to retaliate, impede  
exhaustion of grievances, prompt inmates to assault me, and use whatever means  
to drive me off the yard, in retaliation for me reporting staff. All defendants  
conspired and worked in concert action, with each other. I suffered racial  
and religious discrimination because of my race being Native American.

That at Ely State Prison, the defendants there worked in concert action  
conspired to prevent me from mailing legal documents to FBI on corruption in  
NAX, and destroyed the documents in retaliation for me filing a grievance  
to recover these documents. Both facilities promote a pattern and practice  
of retaliation against me for reporting staff misconduct.

#### C. CAUSE OF ACTION

COUNT I

The following civil rights has been violated: 1<sup>st</sup> Amendment

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

I was trying to find a sponsor for Native Religious grounds, correctional officer Mason was discouraging other staff not to sponsor Native Religious grounds. Without a sponsor we could not get fire wood needed to conduct spiritual sweat. On May 19, 2017, Mason stated in front of a group of inmates that All Native Americans inmates at NNCC were foul and dirty and that our religion was foul and dirty. He got within inches of my face and began yelling racist and derogatory statements specifically directed at me, my race and my Lakota religion. This was done in retaliation to stop me from getting a sponsor for Native Religious Grounds. Mason then threaten, that if I filed a grievance, that it won't go anywhere because of his seniority at NNCC and that he is good friends with Wardens, and my grievance I file against him will not be forwarded to Inspector General Office for investigation. And I will be subjected to harassment by other officers, because like him, other officers do not like Native Americans. He then conspired with other defendants to conceal his discrimination practices, staff misconduct, threats of retaliation and harassment violating my 1<sup>st</sup> Amendment Rights to free speech, right to practice my Lakota religion, right to be free from religious discrimination and religious attacks by him.

COUNT II

The following civil rights has been violated: 1<sup>st</sup> Amendment

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

On May 22<sup>nd</sup> 2017, Mason went to Prison Industries where I was  
hired to work. He had my paper work messed with, and told Ms. Byington  
that I was in a fight, which was a lie. Ms. Byington removed me from  
the hire list, I lost my job. This was done in retaliation for me reporting  
Mason's discrimination and to show me he will make good on his threats  
he made on May 19, 2017 to me.

COUNT III

The following civil rights has been violated: 1<sup>st</sup> Amendment

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

On May 27, 2017, I filed a grievance against Mason, for racial and religious discrimination. He threaten me with how he would get me back and now other officers will be out to get me, for filing the grievance. He then conspired with other defendants to get me kicked off the yard by having defendant Cardella, my unit officer at the time, file false charges on me.

See continue counts on next pages

D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

- 1) Have you filed other actions in state or federal courts involving the **same or similar facts** as involved in this action? 9 Yes      No. If your answer is "Yes", describe each lawsuit. (If more than one, describe the others on an additional page following the below

## Count # 4

The following civil rights has been violated: 1<sup>st</sup> Amendment

On June 25<sup>th</sup> 2017 Damon Bell who is a Lieutenant informed me that he was investigating my complaint against Mason, as it was staying inside the facility. Bell stated he also doesn't like Natives either, and that it doesn't matter if Mason made racist remarks because Mason is part Native, so its not discrimination if a correctional officer who is part Native, makes racist remarks, no does it matter if I had 100 inmates witness the discrimination, because Bell will always find in favor of his fellow co-workers.

Bell then sought to conspire with Mason under 42 USC 1985 (3) to conceal the discrimination because he also doesn't like Native Americans, and then retaliated against me by falsifying the findings in the grievance.

## Count #5

The following civil rights has been violated: 1<sup>st</sup> Amendment

On June 26<sup>th</sup> 2017, Cardella, who was my unit officer at this time, and who is well known for targeting minorities, filed false charges against me to get me removed from the yard. He conspired with Mason and Bell as he doesn't like Native Americans and retaliated for me filing grievance against Mason, exposing discrimination at NMCC. Security Video footage proved charges were false, as he claimed it threaten inmate Beard. Inmate Beard testified at disciplinary hearing that Cardella was out to get me and made up charges to get me kicked off the yard.

## Count #6

The following civil rights has been violated: 1<sup>st</sup> and 14<sup>th</sup> Amendments

On June 8, 2017, Associate Warden Brian Ward sought to block/impede the grievance against Mason to conceal discrimination, racial attacks against me because of my race, and religion. Such act was done in retaliation and to harass and intimidate me from exercising my right to use grievance procedure to complain about staff misconduct.



Count # 7

The following civil rights has been violated: 1<sup>st</sup> and 14<sup>th</sup> Amendments

On July 25, 2017, Associate Warden Brian Ward then sought to impede my grievance against Officer Cardella for filing false charges against me. I resubmitted grievance, Brian Ward refused to process to prevent exhaustion, to conceal civil rights violations and the fact Cardella filed false charges against me.

Count # 8

The following civil rights has been violated: 1<sup>st</sup> and 14<sup>th</sup> Amendments

On September 19, 2017, Damon Bell, who is a lieutenant, stated in front of me to other staff, "I do not like the Native, put him on the other inmates enemy list so we can get him out of the facility". Bell knew I was the victim as the other inmate admitted to assaulting me in the bathroom, because I filed grievances on staff misconduct specifically against Mason. Bell was retaliating against me because I'm Native and he doesn't like Natives, because I filed grievances on staff misconduct and because I filed a civil rights suit in federal court against the facility. Bell could not remove me from the facility because of a settlement agreement. So he ordered me to be sent to Administrative Segregation, then after 2 days he had me moved to unit 4 where he stated I would be level reduced from level one to level three and have to reduce 90 days in level 3 as punishment for filing grievances and reporting staff misconduct as well as being Native!

Count # 9

The following civil rights has been violated: 1<sup>st</sup> and 14<sup>th</sup> Amendments

On November 7<sup>th</sup>, 2017, I filed a grievance #20063057560 for prison guards opening my legal mail then sending it through regular mail to me, whereupon I received it open. All legal mail is to be open in front of the inmate, but in retaliation Lobato and Peters open and read the legal mail on corruption within NDOC.

Count # 10

The following civil rights has been violated: 1<sup>st</sup>, 14<sup>th</sup> and 8<sup>th</sup> Amendments

On November 29<sup>th</sup> 2017, Officers Lobato and Officer Peters prompted an inmate to assault me. The inmate who was white, ran up hitting me from behind knocking me to the floor and hit me repeatedly in the head. Both Lobato and Peters stood there watching, and refused to stop the assault. Another inmate ran over pulled the inmate off of me, helped me up. I walked apart Lobato and Peters who pretended not to see my face was bloody, and just smiled.

They refused to take a report so I notified mental health worker Keith Ownsby who was in the unit and witnessed my injuries. He notified officials but they did nothing that day. Security video showed attack and showed Lobato and Peters standing in

Count # 11

The following civil rights has been violated: 1<sup>st</sup> and 14<sup>th</sup> Amendments

On December 8<sup>th</sup>, 2017 I filed an Appeal on being level reduced from level one to level 3. Associate Warden Brian Ward blocked and impeded the Appeal in conspiracy with Damon Bell, in retaliation for my reporting staff misconduct. I resubmitted but Brian Ward refused to process, thus impeding my efforts in exhausting my Appeal, on Damon Bell sanctioning me to level 3 for 90 days because he doesn't like Natives.

Count # 12

The following civil rights has been violated: 1<sup>st</sup> and 14<sup>th</sup> Amendments

On March 21, 2018, Brian Ward blocked and impeded grievance #20063057560 regarding my legal mail that was open and read by staff on November 7<sup>th</sup> 2017. This was done in retaliation for reporting staff misconduct, and in concert action with other defendants.

Count # 13

The following civil rights has been violated: 1<sup>st</sup> and 14<sup>th</sup> Amendments

On May 17, 2018, Lisa Walsh impeded the resubmission of grievance #20063057560 on my legal mail by claiming I had to attach the mail to my grievance. I explained in my resubmission that I did not have the legal mail as it was turned over to federal law enforcement. And AR 740 grievance procedure does not require me to attach documents I do not have, in order to file a grievance. Lisa Walsh said until I attach the documents, I can not file the grievance, thus impeding my ability to file and exhaust said grievance. This was done in retaliation, and in concert action with Brian Ward and other defendants to conceal civil rights violations.

Count # 14

On June 19, 2018, I submitted a letter to Director James Nzurandwa regarding my grievance #2006303058311 against Lobato and Peters and how Lisa Walsh had lied in her memo dated May 15, 2018 to stop exhaustion. My family also called him and explained how the prison was interfering with the exhaustion. He refused to take corrective action in preventing Associate Warden Lisa Walsh from impeding and interfering with proper exhaustion.

Count # 15

The following civil rights has been violated: 1st and 14th Amendments

On July 14<sup>th</sup>, 2018, I submitted a letter to Director James Duranda regarding interference with exhaustion of my grievances against Damon Bell # 20063056990, as Inspector General Pam Del Porto and Warden Isidro Buca refused to issue disposition and allow me to proceed to First level of the grievance process. My family called him and told him something needed to be done as it was filed in 2017. Director James Duranda refused to take corrective action even when he was advised of the unconstitutional methods being used to stop exhaustion of grievance.

Count # 16

The following civil rights has been violated: 1st and 14th Amendments

On March 19, 2018, I received a Unauthorized Mail Notice from Ely State Prison on mail they been holding since September 2015. I appealed the decision on March 27, 2018. The mail contained legal documents proving corruption by NDOC, that was being sent to federal law enforcement in Las Vegas Nevada. Ely State Prison employees John Doe #1 and John Doe #2 conspired with Associate warden William Gitter to destroy the mail during the First level grievance when I requested the mail be sent to FBI in Las Vegas Nevada. William Gitter knew the mail was to be kept safe until after the grievance process was completed, yet he and both John Does destroyed it during First level. Then William Gitter sought to cover up the violation by conspiring with Deputy Director Harold Wickham in falsifying official responses claiming the mail was destroyed in accordance to policy. Thus violating my due process rights to file a grievance on mail to recover, and right to have mail sent after grievance was final/exhausted, per AR 750 and AR 740.

The mail was destroyed in retaliation and to cover up federal crimes.

outline).

- a) Defendants: Greg Smith et al.
- b) Name of court and docket number: 3:14-cv-00369-MMD-WGC
- c) Disposition (for example, was the case dismissed, appealed or is it still pending?):  
Settlement Agreement
- d) Issues raised: Metabication for filing grievances, staff abuse, interfering with communications to federal law enforcement.
- e) Approximate date it was filed: \_\_\_\_\_
- f) Approximate date of disposition: 5-15-15

- 2) Have you filed an action in federal court that was **dismissed because it was determined to be frivolous, malicious, or failed to state a claim upon which relief could be granted?**  
 \_\_\_ Yes X No. If your answer is "Yes", describe each lawsuit. (If you had more than three actions dismissed based on the above reasons, describe the others on an additional page following the below outline.)

Lawsuit #1 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: \_\_\_\_\_
- b) Name of court and case number: \_\_\_\_\_
- c) The case was dismissed because it was found to be (check one): \_\_\_ frivolous \_\_\_ malicious or \_\_\_ failed to state a claim upon which relief could be granted.
- d) Issues raised: \_\_\_\_\_
- e) Approximate date it was filed: \_\_\_\_\_
- f) Approximate date of disposition: \_\_\_\_\_

Lawsuit #2 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: \_\_\_\_\_
- b) Name of court and case number: \_\_\_\_\_

- c) The case was dismissed because it was found to be (check one): \_\_\_\_\_ frivolous  
 \_\_\_\_\_ malicious or \_\_\_\_\_ failed to state a claim upon which relief could be granted.
- d) Issues raised: \_\_\_\_\_  
 \_\_\_\_\_
- e) Approximate date it was filed: \_\_\_\_\_
- f) Approximate date of disposition: \_\_\_\_\_

Lawsuit #3 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: \_\_\_\_\_
- b) Name of court and case number: \_\_\_\_\_
- c) The case was dismissed because it was found to be (check one): \_\_\_\_\_ frivolous  
 \_\_\_\_\_ malicious or \_\_\_\_\_ failed to state a claim upon which relief could be granted.
- d) Issues raised: \_\_\_\_\_  
 \_\_\_\_\_
- e) Approximate date it was filed: \_\_\_\_\_
- f) Approximate date of disposition: \_\_\_\_\_

- 3) Have you attempted to resolve the dispute stated in this action by seeking relief from the proper administrative officials, e.g., have you exhausted available administrative grievance procedures? ☒ Yes \_\_\_\_\_ No. If your answer is "No", did you not attempt administrative relief because the dispute involved the validity of a: (1) \_\_\_\_\_ disciplinary hearing; (2) \_\_\_\_\_ state or federal court decision; (3) \_\_\_\_\_ state or federal law or regulation; (4) \_\_\_\_\_ parole board decision; or (5) \_\_\_\_\_ other \_\_\_\_\_.

If your answer is "Yes", provide the following information. Grievance Number \_\_\_\_\_

Date and institution where grievance was filed 2006 3048947 2006 3056990 2006 3057560  
2006 3050920 2006 3058311 2006 3058153  
 Filed at NNCL, #20063063912 Filed at NNCL but against ESP.

Response to grievance: Denied, Pending Inspector General disposition and never responded to.

\_\_\_\_\_

\_\_\_\_\_

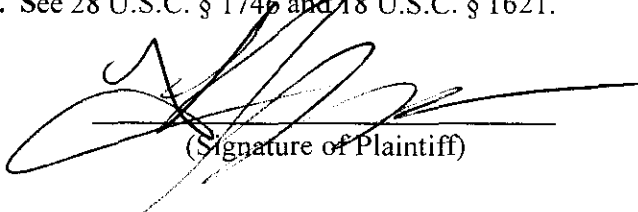
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**E. REQUEST FOR RELIEF**

I believe that I am entitled to the following relief:

1. Injunction, prohibiting defendants from transferring me to another institution unless it serves a penological interest.
2. Award compensatory damages in the amount of \$10,000.00 against each defendant.
3. Award monetary damages and punitive damages of \$10,000.00 against each defendant.
4. Injunctive relief, prohibiting defendants from interfering with grievance process.
5. Injunctive relief, prohibiting defendants from interfering with Mental Health Treatment at NNCC.

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. **I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.** See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

\_\_\_\_\_  
(Name of Person who prepared or helped  
prepare this complaint if not Plaintiff)

  
\_\_\_\_\_  
(Signature of Plaintiff)

3-28-19

(Date)

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(Additional space if needed; identify what is being continued)